

**RULES  
OF  
TENNESSEE BOARD OF OSTEOPATHIC EXAMINATION  
COUNCIL OF CERTIFIED PROFESSIONAL MIDWIFERY  
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1050-5  
GENERAL RULES GOVERNING CERTIFIED PROFESSIONAL MIDWIVES**

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**1050-5-.01 DEFINITIONS.** As used in this chapter, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Administrative Office - The office of the administrator assigned to the Board and Council located on the First Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee 37247-1010.
- (2) CPR - Cardiopulmonary resuscitation.
- (3) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Council receives administrative support.
- (4) NARM - The North American Registry of Midwives.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003.

**1050-5-.02 SCOPE OF PRACTICE.** The scope of midwifery practice shall be as set forth in Tennessee Code Annotated, Sections 63-29-102 (9) and (10) and 63-29-115. As an aid to interpretation and application of that scope of practice, the Council adopts, as if fully set out herein, and as it may from time to time be amended, the "Practice Guidelines" issued by the Tennessee Midwives Association. In the event that the "Practice Guidelines are in conflict with any portion of Tennessee Code Annotated §§ 63-29-101, et seq. (Midwifery Practice Act) the "Midwifery Practice Act" shall govern. Information on how to acquire a copy of the "Practice Guidelines" may be obtained by contacting the Board's administrative office.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-102, 63-29-115, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.03 RESERVED.**

**1050-5-.04 RESERVED.**

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., 63-29-108, and 63-29-116. **Administrative History:** Original rule filed August 21, 2001; effective November 4, 2001. Repeal and new rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.05 CERTIFICATION PROCESS.**

(1) Applications

- (a) Any individual who desires to practice as a certified professional midwife in Tennessee shall apply for certification to the Council on forms provided by the Council, and shall submit the fees required by rule 1050-5-.06.
- (b) It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
- (c) Application review and certification decisions shall be governed by rule 1050-2-.05, where applicable.

(2) Requirements

- (a) An applicant shall have current certification from the North American Registry of Midwives. It is the applicant's responsibility to request verification of current NARM certification be submitted directly from NARM to the Council's administrative office.
- (b) An applicant shall have current certification in CPR, including infant or neonatal resuscitation. The applicant shall submit a notarized photocopy of current certification in CPR with his/her application for certification as a CPM-TN.
- (c) An applicant shall submit a clear and recognizable, recently taken, bust photograph which shows the full head, face forward from at least the top of the shoulders up.
- (d) An applicant shall submit evidence of good moral character. Such evidence shall include at least two (2) letters attesting to the applicant's character. One (1) of the required letters shall be submitted from a health care professional on the signator's letterhead. No letters from family members or relatives shall be accepted.
- (e) If an applicant has ever been authorized to practice as a professional midwife in any other state or country, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each such licensing agency which indicates the applicant either holds a current or active authorization to practice as a professional midwife and whether it is in good standing, or has held an authorization to practice as a professional midwife which is currently inactive and whether it was in good standing at the time it became inactive. It is the applicant's responsibility to request this information be submitted directly from each such licensing agency to the Council's administrative office.
- (f) An applicant shall disclose the circumstances surrounding any of the following:
  - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
  - 2. The denial of professional licensure/certification application by any other state or the discipline of any professional licensure/certification in any state.

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(Rule 1050-5-.05, continued)

3. Loss or restriction of professional licensure/certification.
4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.
5. Failure of any professional licensure or certification examination.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., 63-29-108, 63-29-109, and 63-29-116.

**Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.06 FEES.**

- |     |   |           |
|-----|---|-----------|
| (1) | Application fee   | \$ 500.00 |
| (2) | Biennial renewal fee  | \$ 500.00 |
| (3) | Late renewal fee  | \$ 15.00  |
| (4) | Reinstatement fee   | \$ 50.00  |
| (5) | Duplicate certificate fee   | \$ 5.00   |
| (6) | Biennial state regulatory fee   | \$ 10.00  |
| (7) | All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Council of Certified Professional Midwifery. |           |

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-142, 63-9-101, 63-29-101 et seq., 63-29-112, and 63-29-116. **Administrative History:** Original rule filed August 21, 2001; effective November 4, 2001. Repeal and new rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003.

**1050-5-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.** Review, approval and denial of all applications under this chapter of rules shall be governed by rule 1050-2-.05

**Authority:** T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.08 RESERVED.**

**1050-5-.09 CERTIFICATION RENEWAL.** All Professional midwives certified by the Council must renew their certification to be able to continue in practice. Certification renewal is governed by the following:

- (1) The due date for renewal is the last day of the month in which a certificate holder's birth date falls pursuant to the Division of Health Related Board's biennial birth date renewal system.
- (2) Methods of Renewal - Certificate holders may accomplish renewal by one of the following methods:

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(Rule 1050-5-.09, continued)

- (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:  
  
[www.tennesseeanytime.org](http://www.tennesseeanytime.org)
- (b) Paper Renewals - Certificate holders who have not renewed their authorization online via the Internet, will have a renewal application form mailed to them at the last address provided by them to the Board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a certificate holder must submit to the Division of Health Related Boards on or before the certificate holder's expiration date the following:
  - 1. A completed and signed renewal application form.
  - 2. The renewal and state regulatory fees as provided in Rule 1050-5-.06.
  - 3. Attestation of compliance with NARM continuing education requirements so that current NARM certification in good standing is maintained.
  - 4. Attestation of maintaining current CPR certification, as provided in rule 1050-5-.05.
- (3) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the late renewal fee provided in Rule 1050-5-.06.
- (4) Any certificate holder who receives notice of failure to timely renew pursuant to rule 1200-10-1-.10, and who, on or before the last day of the second (2<sup>nd</sup>) month following the month in which the certificate expires, executes and files in the Council's administrative office an affidavit of retirement pursuant to Rule 1050-5-.11 may have their certificate retired effective on their certification expiration date.
- (5) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
- (6) Any individual who fails to comply with the certificate renewal rules and/or notifications sent to them concerning failure to timely renew shall have their certificate processed pursuant to rule 1200-10-1-.10.
- (7) Certificates processed pursuant to rule 1200-10-1-.10 for failure to renew may be reinstated upon meeting the following conditions:
  - (a) Submit a written request for a Renewal/Reinstatement/Reactivation Application to the Council's Administrative Office; and
  - (b) Complete and submit to the Council's Administrative Office the Renewal/ Reinstatement/ Reactivation Application along with the payment of all past due renewal fees; state regulatory fee and the reinstatement fee provided in rule 1050-5-.06; and
  - (c) Submit any documentation which may be required by the form to the Council's Administrative Office; and
  - (d) If requested, after review by the Council or its duly authorized representative, appear before either the Council for an interview regarding continued competence in the event expiration of certification was in excess of two (2) years or there was receipt of derogatory information or

(Rule 1050-5-.09, continued)

communication during the reinstatement process, and/or be prepared to meet or accept other conditions or restrictions as the Council may deem necessary to protect the public.

- (e) If certification expiration was in excess of five (5) years, the certificate holder may be required to successfully complete requirements the Council feels necessary to establish current levels of competency.
- (8) Renewal issuance and reinstatement decisions pursuant to this Rule may be made administratively subject to review by the Council, any Council member, or the Council's Designee.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-9-101, 63-29-101 et seq., 63-29-109, 63-29-111, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003.

**1050-5-.10 RESERVED.**

**1050-5-.11 INACTIVE STATUS AND REACTIVATION.**

- (1) Certificate holders who wish to retain their certification but not actively practice as a professional midwife may avoid compliance with the certification renewal process by doing the following:
  - (a) Obtain from, complete and submit to the Council's administrative office an inactive status affidavit form.
  - (b) Submit any documentation which may be required by the form to the Council's administrative office.
  - (c) Upon successful application for inactive status with completion and receipt of all proper documentation to the Council's satisfaction, the Council shall register the Certificate as inactive. Any person who has an inactive certificate may not practice as a CPM-TN.
- (2) Reactivation - Any certificate holder whose certification has been placed in inactive status may reenter active practice by doing the following:
  - (a) Submit a written request for a Renewal/Reinstatement/Reactivation Application to the Council's administrative office; and
  - (b) Complete and submit the Council's Renewal/Reinstatement/Reactivation Application along with payment of the certification renewal fee as provided in Rule 1050-5-.06 to the Council's administrative office. If reactivation was requested prior to the expiration of one (1) year from the date of acquiring inactive status, the Council may require payment of the reinstatement fee and past due renewal fees as provided in Rule 1050-5-.06; and
  - (c) Submit any documentation which may be required by the form to the Council's Administrative Office; and
  - (d) If requested, after review by the Council or its duly authorized representative, appear before either the Council for an interview regarding continued competence in the event of inactivation of certification in excess of two (2) years or the receipt of derogatory information or communication during the reactivation process and/or be prepared to meet or accept other conditions or restrictions as the Council may deem necessary to protect the public.

(Rule 1050-5-.11, continued)

- (e) If certification inactivation was in excess of five (5) years, the certificate holder may be required to successfully complete requirements the Council feels necessary to establish current levels of competency.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-111, 63-9-101, 63-29-101 et seq., 63-29-109, 63-29-110, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003.

#### **1050-5-.12 CONTINUING EDUCATION.**

- (1) To be eligible for renewal of certification the continuing education requirements imposed by NARM must be complied with and attestation of compliance submitted at renewal time.
- (2) Having successfully completed the certification requirements of NARM as provided in rule .05 of this chapter shall be considered proof of sufficient education to constitute compliance with continuing education requirements for the initial three (3) year certification period for individuals who are certified by the Council during their first three years of certification with NARM.
- (3) All certificate holders must retain independent documentation acceptable to NARM of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the Division during its verification process.
- (4) Anyone who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 1050-5-.15.
- (5) Anyone who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 1050-5-.15 and may not be allowed to renew certification.
- (6) Education hours obtained as a result of compliance with the terms of Council and/or Board Orders in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., 63-29-109, 63-29-114, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.13 PROFESSIONAL ETHICS.** All certificate holders shall comply with the codes of ethics adopted by the Midwives Alliance of North America except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Council and/or Board. If the codes of ethics conflict with state law or rules, the state law or rules govern the matter. Violation of the codes of ethics or state law or rules may subject a certificate holder to disciplinary action.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., 63-29-115, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

#### **1050-5-.14 RESERVED.**

#### **1050-5-.15 DISCIPLINARY GROUNDS, ACTIONS, AND CIVIL PENALTIES.**

(Rule 1050-5-.15, continued)

- (1) Upon a finding by the Council and Board that a certificate holder has violated any provision of the T.C.A. § 63-29-114 or the rules promulgated pursuant thereto, the Council and Board may take any of the following actions separately or in any combination which is deemed appropriate to the offense;
  - (a) Warning Letter - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
  - (b) Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
  - (c) Probation - This is a formal disciplinary action which places a certificate holder on close scrutiny for a fixed period of time. This action may be combined with conditions that must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
  - (d) Certificate Suspension - This is a formal disciplinary action that suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the certificate previously issued.
  - (e) Revocation For Cause - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the certificate previously issued. The Council and Board, in their discretion, may allow reinstatement of a revoked certificate upon conditions and after a period of time which they deem appropriate. No petition for reinstatement and no new application for certification from a person whose certificate was revoked for cause shall be considered prior to the expiration of at least six (6) months from the effective date of the revocation order.
  - (f) Conditions - Any action deemed appropriate by the Council and Board to be required of a disciplined certificate holder during any period of probation or suspension or as a pre-requisite to the lifting of probation or suspension or the reinstatement of a revoked certificate.
  - (g) Civil Penalty - A monetary disciplinary action assessed by the Council and Board pursuant to the procedures and schedules contained in paragraph (2).
- (2) Civil Penalties
  - (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.
  - (b) Schedule of Civil Penalties.
    1. A "Type A" Civil Penalty may be imposed whenever the Council and Board find a person who is required to be licensed, certified, permitted, or authorized by the Council and Board, guilty of a willful and knowing violation of T.C.A. §§ 63-29-101, et seq., or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing without a certificate is one of the violations for which a "Type A" Civil Penalty is assessable.
    2. A "Type B" Civil Penalty may be imposed whenever the Council and Board find the person required to be licensed, certified, permitted, or authorized by the Council and

(Rule 1050-5-.15, continued)

Board is guilty of a violation T.C.A. §§ 63-29-101, et seq., or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.

3. A "Type C" Civil Penalty may be imposed whenever the Council and Board find the person required to be licensed, certified, permitted, or authorized by the Council and Board is guilty of a violation of T.C.A. §§ 63-29-101, et seq., or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of Civil Penalties.

1. "Type A" Civil Penalties shall be assessed in the amount of not less than \$500 nor more than \$1000.
2. "Type B" Civil Penalties shall be assessed in the amount of not less than \$100 and not more than \$500.
3. "Type C" Civil Penalties shall be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties.

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the Council and Board during consideration of any Notice of Charges. In addition, the Council and Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the Council and Board may consider the following factors:
  - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
  - (ii) The circumstances leading to the violation;
  - (iii) The severity of the violation and the risk of harm to the public;
  - (iv) The economic benefits gained by the violator as a result of non-compliance; and
  - (v) The interest of the public.
4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, T.C.A.



(Rule 1050-5-.15, continued)

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-134, 63-9-101, 63-29-101 et seq., 63-29-114, and 63-29-116.

**Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002. Amendment filed April 8, 2003; effective June 22, 2003.

**1050-5-.16 REPLACEMENT CERTIFICATES.** A Certificate holder whose “artistically designed” Certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Administrative Office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the fee required pursuant to Rule 1050-5-.06.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-9-101, 63-29-101 et seq., and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.17 CHANGE OF NAME AND/OR ADDRESS.**

- (1) Change of Name - Any certificate holder shall notify the Administrative Office in writing within thirty (30) days of a name change and must provide both the old and new names. A name change notification must also include a copy of the official document involved and reference the individual’s profession, council/board, social security number, and certificate numbers.
- (2) Change of Address - Each person holding a certificate who has had a change of address shall file in writing with the Administrative Office his/her current address providing both the old and new addresses. Such requests must be received in the Administrative Office no later than thirty (30) days after such change is effective and must reference the individual’s name, profession, social security number, and certificate number.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-108, 63-9-101, 63-29-101 et seq., and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.

**1050-5-.18 RESERVED.**

**1050-5-.19 COUNCIL OFFICERS, CONSULTANTS, RECORDS, AND DECLARATORY ORDERS.**

- (1) The Council shall annually elect from its members the following officers:
  - (a) Chairperson - who shall preside at all meetings of the Council; and
  - (b) Vice-Chairperson - who shall preside at meetings in the absence of the Chairperson and who along with the Council Administrator shall be responsible for correspondence from the Council.
- (2) The Council has the authority to select a Council consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:
  - (a) Review complaints and recommend whether and what type of disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
  - (b) Recommend whether and upon what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the Council and Board before it becomes effective.
  - (c) Undertake any other matter authorized by a majority vote of the Council and/or Board.

(Rule 1050-5-.19, continued)

- (3) Records and Complaints
  - (a) Minutes of the Council meetings and all records, documents, applications and correspondence will be maintained in the Administrative Offices.
  - (b) All requests, applications, notices, other communications and correspondence shall be directed to the Administrative Office. Any requests or inquiries requiring a Council decision or official Council action except documents relating to disciplinary actions, or hearing requests must be received fourteen (14) days prior to a scheduled meeting and will be retained in the Administrative Office and presented to the Council at the Council meeting. Such documents not timely received shall be set over to the next Council meeting.
  - (c) All records of the Council, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Administrative Office during normal business hours.
  - (d) Copies of public records shall be provided to any person upon payment of a fee.
  - (e) All complaints should be directed to the Division's Investigations Section.
- (4) The Council members or the Consultant are individually vested with the authority to do the following acts:
  - (a) Review and make determination on certification, renewal and reactivation of applications subject to the rules governing those respective applications and subject to the subsequent ratification by the Council and Board.
  - (b) Serve as Consultant to the Division to decide the following:
    - 1. Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.
    - 2. Whether and under what terms a complaint, case or disciplinary action might be settled. Any proposed settlement must be subsequently ratified by the Council and Board.
- (5) The Council shall designate one (1) of its members or the Consultant to make determinations pursuant to Rule 1360-4-1-.18.
- (6) Requests for Verification of Licensure for a certified midwife desiring to practice in another state must be made in writing to the Administrative Office.
- (7) Declaratory Orders - The Council adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Council shall be addressed by the Council pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Administrative Office.

**Authority:** T.C.A. §§4-5-202, 4-5-105, 4-5-223, 4-5-224, 63-1-115, 63-1-117, 63-9-101, 63-29-101 et seq., 63-29-106, and 63-29-116. **Administrative History:** Original rule filed February 4, 2002; effective April 20, 2002.